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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,577	10/31/2002	Jason Shiepe	PES-0089	9779

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EXAMINER
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BELL, BRUCE F

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,577

Applicant(s)

SHIEPE, JASON

Examiner

Bruce F. Bell

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a): In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 12/2/02

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, drawn to an electrochemical cell, classified in class 204, subclass 263.
  - II. Claims 14-16, drawn to a pressure regulating system, classified in class 429, subclass 25.
  - III. Claims 17-19, drawn to a method of regulating pressure in an electrolysis cell system, classified in class 95, subclass 22.
  - IV. Claim 20, drawn to a computer data signal, classified in class 307, subclass 153.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as an electrochemical cell system and a pressure regulating system. The pressure regulating system as set forth in the instant claims is not required in the electrochemical cell system as presented in instant claim 1. Further, the pressure regulation system does not require a sensor or a water discharge as set forth in the group I claims.

Inventions I and III are directed to an electrochemical cell and a method of regulating pressure in an electrolysis cell. The pressure regulation method as set forth in the group III claims is disclosed to be an electrolysis cell, however, the group I claims are directed to an electrochemical cell stack. The electrochemical stack can be a fuel

Art Unit: 1746

cell which is not an electrolysis cell. Therefore, the apparatus can be used in a materially different manner than an electrolysis cell.

Inventions I and IV are directed to an electrochemical cell and a computer data signal which are not related. A computer data signal does not have to be used in an electrochemical cell and an electrochemical cell does not have to be operated with a computer data signal. Therefore, the two are distinct.

Inventions II and III are directed to a pressure regulating system and a method of regulating pressure. The means for generating hydrogen in fluid communication with the means for sensing in the group II claims is not required in the process for regulating pressure as set forth in the group III claims.

Inventions II and IV are directed to a pressure regulating system and a computer data signal. The pressure regulating system does not require a computer data signal, the system only requires a means for sensing and a means for regulating neither of which has to be a data signal, but instead can be mechanical and/or electrically based.

Inventions III and IV are directed to a method of regulating pressure and a computer data signal. The method of regulating pressure does not require a computer data signal. The method only requires a control device which can be electrical and/or mechanically based.

- a. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 1746

2. During a telephone conversation with Ms. Pamela Curbelo on August 10, 2005 a provisional election was made with traverse to prosecute the invention of group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

3. Claim 8 is objected to because of the following informalities:

The preamble of claim 8 is not commensurate with that of the independent claim 1 on which it depends. It appears that the instant preamble of claim 8 should read "The electrochemical cell system".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews et al (WO 98/42617).

Andrews et al disclose an ozone generator having an electrolytic cell stack 12, a phase separation apparatus (anode reservoir 30 which serves as a liquid/gas separator) in fluid communication with the electrolytic cell stack 12. A water discharge 38 in fluid communication with the phase separation apparatus 30 by way of valves or flow control

Art Unit: 1746

devices 54, 56, 58 and 60 which are in communication between the phase separation apparatus 30 and the water discharge 38. A control device 44 in operable communication with a sensor (not shown), the multiple valves used for flow control. See Figure 1 and page 23, line 18 – page 26, line 29. The system controller 44 receives various signals from sensors and switches and sends control signals to valves, pumps, switches and other devices as shown in Figure 1.


The prior art of Andrews anticipates the applicant's instant invention as set forth in the claims with respect to the disclosure and Figures 1 as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce F. Bell whose telephone number is 571-272-1296. The examiner can normally be reached on Monday-Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BFB

  
Bruce F. Bell

Application/Control Number: 10/065,577

Page 6

Art Unit: 1746

September 1, 2005

Primary Examiner  
Art Unit 1746